IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6276 OF 2007

Milind Panditrao Pujari .... Petitioner

versus

Bharatiya Shiksha Abhiyan & ors..... Respondent.

Shri J.S.Deo for the petitioner
Shri Dilip Bodake for respondent no.1.
Shri A.V.Anturkar i/b. S.B.Deshmukh for respondent no.2.
Ms. Anu Singh for respondent no.6.

CORAM; A.P. DESHPANDE, J.
DATED; 10TH OCTOBER, 2007

P.C.;

1. The present petitioner is the original plaintiff who instituted a suit claiming various reliefs against the defendants. One of the defendants moved an application under section 8 of the Arbitration and Conciliation Act 1996, contending that deed of settlement dated 21-10-2003, memorandum of understanding dated 12-4-2005 and deed of revocation dated 19-5-2005 provide for resolution of the dispute by the sole arbitrator and hence a prayer was made for referring the dispute to the sole arbitrator. Relying upon clause 11(o) of the deed of settlement and a clause in the memorandum of understanding dated 12-4-2005 which provides thus:

> "Any dispute under this agreement is subject to efforts of Reconciliation by Shri Madan Divan. He shall give his decision within 45 days of receipt of complete representation from concerned parties. The jurisdiction of this agreement is Pune city."

the trial court has referred the dispute to the sole arbitrator and has disposed of the suit. Aggrieved by the order passed under section 8 of the Arbitration and Conciliation Act and the judgment disposing of the suit, petitioner has filed this writ petition. The learned counsel for the respondent has raised a preliminary objection about the maintainability of the writ petition by contending that the impugned order is an appealable order and thus no indulgence be shown by entertaining the writ petition. The learned counsel for the petitioner has himself submitted that the order of making a reference to sole arbitrator is in the nature of return of plaint under Order 7 Rule 10. If this be so, on the own showing of the petitioner, the order is appealable under Order 43 Rule 1(a) of CPC. In this view of the matter writ petition is summarily dismissed as there exist an alternative efficacious remedy in the form of appeal.

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